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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/551,399

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Christopher J. Chase

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7590

08/22/2005

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EXAMINER

HOM, SHICK C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/551,399

Applicant(s)

CHASE ET AL.

Examiner

Shick C. Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32, 34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 32 and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

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order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hluchyj et al. (5,425,029) in view of Voit et al. (6,870,827).

Regarding claims 32, 34-35:

Hluchyj et al. disclose a network comprising: customer premises equipment; a frame relay switch coupled to the customer premises equipment with at least one permanent virtual circuit and receiving a plurality of frame relay data packets (see col. 4 lines 15-35 which recite the logical address of the fast packet being mapped to cell relay logical address using a predetermined table look-up clear anticipate the use of a permanent virtual circuit for receiving frame relay data packets), the frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address (see col. 2 lines 41-68 and col. 9 lines 21-26 which recite the network for translating fixed length cell relay data packets into variable length fast packets and vice versa clearly anticipate the frame relay switch for translating user

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data within at least one of the frame relay data packets into a fast packet address) as in claim 32.

For claims 32, 34-35, Hluchyj et al. disclose all the subject matter of the claimed invention with the exception of wherein the frame relay switch responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data as in claim 32 and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as in claims 34-35.

Voit et al. from the same or similar fields of endeavor teach that it is known to provide wherein the frame relay switch responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data (see col. 3 line 66 to col. 4 line 24 which recite router for routing calls in accordance with the quality of service in the network) as in claim 32 and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as in claims 34-35 (see col. 7 lines 28-42 which recite that both the signaling and information content being communicated through the Internet using TCP/IP protocol and packets transmitted and received through the physical transport layer including ATM frame relay mode clearly anticipate the frame relay switch being

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responsive to layer 4 data and to layer 3 Internet protocol (IP) data, respectively) as in claims 32, 34-35.

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide wherein the frame relay switch responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data as in claim 32 and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as taught by Voit et al. in the communications network of Hluchyj et al.

The frame relay switch responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data as in claim 32 and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data can be implemented by connecting advanced intelligent network router of Voit et al. to the switch of Hluchyj et al. The motivation for using advanced intelligent network router responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data as in claim 32 and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as taught by Voit et al. in the communication network of Hluchyj et al. being that it provides more desirable added

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feature of routing calls in accordance with quality of service categories at the transmitter.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Civanlar et al. disclose intelligent processing for establishing communication over the Internet.

Koperda et al. disclose system and method for providing statistics for flexible billing in a cable environment.

Belser et al. disclose aggregation of MAC data flows through pre-established path between ingress and egress switch to reduce number of number connections.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH



DANG TON  
PRIMARY EXAMINER